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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,045

12/09/2003

Patricia Lynn Maw

AWK03-016

7545

27201 7590 09/26/2008

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EXAMINER

WILSON, YOLANDA L

ART UNIT

PAPER NUMBER

2113

MAIL DATE

DELIVERY MODE

09/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/731,045	<b>Applicant(s)</b> MAW ET AL.	
	<b>Examiner</b> Yolanda L. Wilson	<b>Art Unit</b> 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 12, 17 and 18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 3, 17, 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-2 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-2 recite the limitations 'a Windows .NET Operating System...a HealthMonitor Service...user client application/script means'. These limitations are direct to software per se and need to be stored in memory.

3. Claim 3 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 3 recites the limitation 'means for selectively monitoring...means to create...means to enable...means to check...means to collect...means to apply...'. These limitations are direct to software per se and need to be stored in memory.

***Allowable Subject Matter***

4. Claim 12 is allowed.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava et al. (US Publication Number 20030212928A1) in view of Wookey et al. (USPN 6182249B1) in further view of Wikipedia (.NET Framework). As per claim 3, Srivastava et al. discloses in a Multi-processor network involving multiple numbers of "local systems", a Health Monitoring and corrective response service for handling each said "local system" involved, comprising: (a) means for selectively monitoring on a 24-hour basis of each one of said local systems in said network automatically at startup; (b) means to create a collection of health events and predictive events; (c) means to enable a series of defined operating policies P; (d) means to check each local system, for any violation of said series of operating policies P; (e) means to collect a list of policy violations detected; (f) means to apply corrective actions in those areas where policy violations have been detected on page 2, paragraph 0019; pages 2-3, paragraphs 0020-0024. The multiprocessor network and local systems consist of the processors on the servers and the servers..

Srivastava et al. fails to explicitly state wherein said means (b) to create a collection includes: (b1) means to sense current operational and availability problems in each local system; (b2) means to sense future trends which can predict future problems which may occur.

Wookey et al. discloses this limitation in column 12, lines 14-26.

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Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have said means (b) to create a collection includes: (b1) means to sense current operational and availability problems in each local system; (b2) means to sense future trends which can predict future problems which may occur. A person of ordinary skill in the art would have been motivated to have said means (b) to create a collection includes: (b1) means to sense current operational and availability problems in each local system; (b2) means to sense future trends which can predict future problems which may occur because predicting events helps to predict when the failure occurs and to perform action to keep the failure from occurring.

Srivastava et al. discloses wherein said means (c) to enable operating policies includes: (c1) means to check when each policy P is enabled in a local system; (c2) means to read a file of P attributes to determine; (i) what to monitor; (ii) how often to monitor; (iii) what action to take when a policy violation is sensed on pages 2-3, paragraphs 0021-0023.

Srivastava et al. discloses wherein said means (c) to enable operating policies includes: (6c1) means for utilizing a separate processing Thread T for monitoring each provider on pages 2-3, paragraphs 0021-0023.

Srivastava et al. discloses wherein said means (6c1) includes:  
(6c1a) means to check a data item specified in said policy P; (6c1b) means to sense a violation of Policy P; (6c1c) means to create a Violation Event and add it to said collection of Health Events on pages 2-3, paragraphs 0021-0023.

Srivastava et al. fails to explicitly state (6c1d) means to check the monitoring of Policy P to sense if predictive data is encountered; (6c1e) means to add each sensing of a predictive event to said Predictive Events collection.

Wookey et al. discloses this limitation in column 12, lines 14-26.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have (6c1d) means to check the monitoring of Policy P to sense if predictive data is encountered; (6c1e) means to add each sensing of a predictive event to said Predictive Events collection. A person of ordinary skill in the art would have been motivated to have (6c1d) means to check the monitoring of Policy P to sense if predictive data is encountered; (6c1e) means to add each sensing of a predictive event to said Predictive Events collection because predicting events helps to predict when the failure occurs and to perform action to keep the failure from occurring.

Srivastava et al. discloses where said means (6c1b) includes:  
(6c1b1) means to utilize a User-Client application/ script means to provide corrective action on said violation of Policy P in paragraphs 0023,0027.

Srivastava et al. fails to explicitly state wherein means (6c1e) includes: (6c1e1) means to send a warning signal to said client-user regarding possible future failure of said predictive event in said Predictive Events collection.

Wookey et al. discloses this limitation in column 12, lines 14-26.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have means (6c1e) includes: (6c1e1) means to send a warning signal to said client-user regarding possible future failure of said predictive

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event in said Predictive Events collection. A person of ordinary skill in the art would have been motivated to have means (6c1e) includes: (6c1e1) means to send a warning signal to said client-user regarding possible future failure of said predictive event in said Predictive Events collection because actions can be performed to keep the failure from occurring.

Srivastava et al. fails to explicitly state wherein said network is operated on a .NET platform.

Wikipedia discloses this limitation on page 1.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have said network be operated on a .NET platform. A person of ordinary skill in the art would have been motivated to have said network be operated on a .NET platform because of the ability of the .NET Framework to be used in a Microsoft Windows operating system.

7. Claims 17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava et al. (US Publication Number 20030212928A1) in view of Bush (USPN 6754664B1) in further view of Mitchell et al. (USPN 20020113816A1). As per claim 17, (a) initiating a Health Monitor (704) Service forming a Health Events Object for each local system to monitor hardware and software of each local system and to provide corrective response actions required, including the steps of: (a1) collecting events that violate internal operating policies; (b) monitoring of each local system present and also any later added local systems present in the network configuration by evaluating a pre-set policy P on each Health Event, including the steps of: (b1) retrieving by each local

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system of Health Events in said Health Events Object; (b2) operating a Knowledge script to retrieve each detected abnormal Health Event and each predictive event indicating a trend toward degraded operation on page 2, paragraph 0019; pages 2-3, paragraphs 0020-0024.

Srivastava et al. fails to explicitly state utilizing an inbuilt sequence of XML statements.

Bush discloses this limitation in column 13, line 63 – column 14, line 11.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilizing an inbuilt sequence of XML statements. A person of ordinary skill in the art would have been motivated to have utilizing an inbuilt sequence of XML statements because the XML statements are used to determine the health of the components.

Srivastava et al. and Bush fail to explicitly state (c) flashing of an icon on a tree view in each local system to indicate an abnormal event or a predictive trend.

Mitchell et al. discloses this limitation in paragraph 0064.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have flashing of an icon on a tree view in each local system to indicate an abnormal event or a predictive trend. A person of ordinary skill in the art would have been motivated to have flashing of an icon on a tree view in each local system to indicate an abnormal event or a predictive trend because the flashing icon can make an administrator aware of problems.



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8. As per claim 18, Srivastava et al. discloses (d) enabling corrective application scripts for handling Health Events deemed outside of preset Policy parameters reported in said Health Events Object on pages 2-3, paragraphs 0020-0024.

***Response to Arguments***

9. Applicant's arguments with respect to claims 3,12,17,18 have been considered but are moot in view of the new ground(s) of rejection. Please see the above rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yolanda L. Wilson whose telephone number is (571) 272-3653. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yolanda L Wilson/  
Primary Examiner, Art Unit 2113